

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	No. 03-10370-DPW
)	
	)	VIOLATIONS:
	)	21 U.S.C. § 846 -
v.	)	Conspiracy to Possess
	)	With Intent to Distribute
1. DOUGLAS BANNERMAN,	)	And to Distribute Marijuana
2. KURT WALTER,)	
(a/k/a "Cort")	)	21 U.S.C. §841 -
3. GARY NEWELL,	)	Possession of Marijuana with
4. DANIEL MACAULEY,	)	Intent to Distribute and
5. JOHN MCCARTHY,	)	Distribution of Marijuana
6. JOHN GRAHAM,)	
(a/k/a "JG" or "G-Man"),	)	18 U.S.C. §1956(a)(1) -
7. SCOTT MYERS,	)	Money Laundering
8. JOSE VEZGA, and)	
9. FRANK GIGLIO,)	
)	
Defendants.)	

SUPERSEDING INDICTMENT

COUNT ONE: (21 U.S.C. § 846 - Conspiracy to Possess With Intent To Distribute and to Distribute Marijuana)

The Grand Jury charges that:

From a date unknown to the Grand Jury, but no later than in or about January, 2003, and continuing until on or about December 1, 2003, at Boston and Brookline, and elsewhere, in the District of Massachusetts, and elsewhere,

1. DOUGLAS BANNERMAN,
2. KURT WALTER,
- (a/k/a "Cort")
3. GARY NEWELL,
4. DANIEL MACAULEY,
5. JOHN MCCARTHY,
6. JOHN GRAHAM,
- (a/k/a "JG" or "G-Man"),
7. SCOTT MYERS,
8. JOSE VEZGA, and
9. FRANK GIGLIO,

defendants herein, knowingly and intentionally combined, conspired, and agreed with each other and with others known and unknown to the Grand Jury, to possess with intent to distribute and to distribute marijuana, a Schedule I controlled substance, in violation of Title 21, United States Code, Section 841(a)(1).

It is further alleged that the conspiracy involved 100 kilograms or more of a mixture and substance containing a detectable amount of marijuana, a Schedule I controlled substance. Accordingly, 21 U.S.C. § 841(b)(1)(B)(vii) is applicable to this count.

All in violation of Title 21, United States Code, Section 846.

COUNT TWO: **(21 U.S.C. § 841 - Possession With Intent To Distribute and Distribution of Marijuana)**

The Grand Jury further charges that:

On or about May 22, 2003 at Natick, in the District of Massachusetts,

2. KURT WALTER, a/k/a "Cort,"

defendant herein, did knowingly and intentionally possess with intent to distribute, and did distribute, a quantity of marijuana, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

COUNT THREE: (21 U.S.C. § 841 - Possession With Intent To Distribute and Distribution of Marijuana; 18 U.S.C. §2 - Aiding and Abetting)

The Grand Jury further charges that:

On or about June 12, 2003 at Brookline, in the District of Massachusetts,

2. KURT WALTER, a/k/a "Cort,"

defendant herein, did knowingly and intentionally possess with intent to distribute, and did distribute, a quantity of marijuana, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

COUNT FOUR: (21 U.S.C. § 841 - Possession With Intent To Distribute and Distribution of Marijuana)

The Grand Jury further charges that:

On or about August 21, 2003, at Newton, in the District of Massachusetts,

2. KURT WALTER, a/k/a "Cort,"

defendant herein, did knowingly and intentionally possess with intent to distribute, and did distribute, a quantity of marijuana, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

COUNT FIVE: (21 U.S.C. § 841 - Possession With Intent To Distribute and Distribution of Marijuana)

The Grand Jury further charges that:

On or about September 16, 2003, in Brookline, in the District of Massachusetts,

2. KURT WALTER, a/k/a "Cort,"

defendant herein, did knowingly and intentionally possess with intent to distribute, and did distribute, a quantity of marijuana, a Schedule I controlled substance.

All in violation of Title 21, United States Code, Section 841(a)(1).

COUNT SIX: (18 U.S.C. § 1956(a)(1) - Money Laundering)

The Grand Jury further charges that:

From a time unknown to the Grand Jury, but no later than May, 2003, and continuing thereafter until at least November, 2003, in Newton, in the District of Massachusetts, and elsewhere,

**2. KURT WALTER,
a/k/a "Cort"**

defendant herein, did knowingly conduct and attempt to conduct a financial transaction affecting interstate and foreign commerce, that is, he invested cash in a restaurant venture located in a rented building, which involved the proceeds of a specified unlawful activity, that is, narcotics trafficking, knowing that the transaction was designed in whole and in part to conceal and disguise the nature, location, source, ownership, and control of the proceeds of said specified unlawful activity and that while conducting and attempting to conduct such financial transaction knew that the property involved in the financial transaction, that is, funds in the amount of no less than \$80,000, represented the proceeds of some form of unlawful activity.

All in violation of Title 18, United States Code, Section 1956(a)(1)(B)(i).

CRIMINAL FORFEITURE ALLEGATION
(21 U.S.C. § 853)

The Grand Jury further charges that:

1. As a result of committing one or more of the offenses alleged in Counts One through Five of this indictment, in violation of 21 U.S.C. §846 and 841(b)(1)(B) (conspiracy to possess with intent to distribute and to distribute marijuana); and 21 U.S.C. §841 (possession with intent to distribute and distribution of marijuana):

1. DOUGLAS BANNERMAN,
2. KURT WALTER,
(a/k/a "Cort")
3. GARY NEWELL,
4. DANIEL MACAULEY,
5. JOHN MCCARTHY,
6. JOHN GRAHAM,
(a/k/a "JG" or "G-Man"),
7. SCOTT MYERS,
8. JOSE VEZGA, and
9. FRANK GIGLIO

defendants herein, if convicted, shall forfeit to the United States, pursuant to 21 U.S.C. §853: (1) any and all property constituting or derived from any proceeds the said defendants obtained directly or indirectly as a result of the charged offenses; and (2) any and all property used or intended to be used in any manner or part to commit and to facilitate the commission of the offenses.

Such property includes, but is not limited to, the following:

REAL PROPERTY

(i) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at 25 Royal Road, Brookline, Massachusetts, more fully described in the deed dated July 21, 1980, recorded at the Norfolk County Registry of Deeds, Book 5755, page 574;

2. If any of the above-described forfeitable property, as a result of any act or omission of the defendants: (a) cannot be located upon the exercise of due diligence; (b) has been transferred or sold to, or deposited with, a third party; (c) has been placed beyond the jurisdiction of the Court; (d) has been substantially diminished in value; or (e) has been commingled with other property which cannot be subdivided without difficulty; it is the intent of the United States, pursuant to 21 U.S.C. §853(p), to seek forfeiture of any other property of said defendants up to the value of the above forfeitable property. Such substitute assets include, but are not limited to the following:

REAL PROPERTY

(i) All that lot or parcel of land, together with its buildings, appurtenances, improvements, fixtures, attachments and easements, located at, 23 Pilgrim By Way, Duxbury, Massachusetts, as more fully described in the deed dated April 22, 2002 and the fiduciary deed, recorded at the Plymouth County Registry of Deeds, book 21938, page 150 and filed in registered land as

certificate 101124, Document 536860 and in unregistered land as
certificate 101124, document 504340.

All in accordance with Title 18, United States Code, Section
853 and Rule 32.2(a), Federal Rules of Criminal Procedure.

MONEY LAUNDERING FORFEITURE ALLEGATION
(18 U.S.C. §982)

The Grand Jury further charges that:

1. Pursuant to Title 18, United States Code, Section 982(a)(1),

1. KURT WALTER,

a/k/a "Cort,"

defendant herein, if convicted of the offense set forth in Count Six shall forfeit to the United States the following property:

a. All right, title, and interest in any and all property involved in each offense in violation of Title 18, United States Code, Section 1956 , for which the defendant is convicted, and all property traceable to such property, including, but not limited to, the following:

1) all money or other property that was the subject of each transaction, transportation, transmission or transfer in violation of Section 1956;

2) all commissions, fees and other property constituting proceeds obtained as a result of those violations; and

3) all property used in any manner or part to commit or to facilitate the commission of those violations;

b. A sum of money equal to the total amount of money involved in each offense, or conspiracy to commit such offense, for which the defendant is convicted. If more than one defendant is convicted of an offense, the defendants so convicted are jointly and severally liable for the amount involved in such offense.

2. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 18, United States Code, Section 982(b), each defendant shall forfeit substitute property, up to the value of the amount of the forfeitable property described above, if, by any act or omission of the defendant, the property described in paragraph 1, or any portion thereof, cannot be located upon the exercise of due diligence; has been transferred, sold to or deposited with a third party; has been placed beyond the jurisdiction of the court; has been substantially diminished in value; or has been commingled with other property which cannot be divided without difficulty.

All in accordance with Title 18, United States Code, Section 982(a)(1), and Rule 32.2(a), Federal Rules of Criminal Procedure.

NOTICE OF ADDITIONAL FACTORS

The Grand Jury further charges that:

1. The defendant DOUGLAS BANNERMAN is accountable for at least 700 kilograms, but less than 1,000 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(5) applies to this defendant.

2. The defendant KURT WALTER is accountable for at least 100 kilograms, but less than 400 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(7) applies to this defendant.

3. The defendant KURT WALTER was a manager and supervisor of a criminal activity that involved five or more participants and was otherwise extensive. Accordingly, USSG §3B1.1(b) applies to this defendant.

4. The defendant GARY NEWELL is accountable for at least 100 kilograms, but less than 400 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(7) applies to this defendant.

5. The defendant DANIEL MACAULEY is accountable for at least 10 kilograms, but less than 20 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(12) applies to this defendant.

6. The defendant JOHN MCCARTHY is accountable for at least 80 kilograms, but less than 100 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(8) applies to this defendant.

7. The defendant JOHN GRAHAM is accountable for at least 2.5 kilograms, but less than 5 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(14) applies to this defendant.

8. The defendant SCOTT MYERS is accountable for at least 5

kilograms, but less than 10 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(13) applies to this defendant.

9. The defendant JOSE VEZGA is accountable for less than 250 grams of marijuana. Accordingly USSG §2D1.1(c)(17) applies to this defendant.

10. The defendant FRANK GIGLIO is accountable for at least 100 kilograms, but less than 400 kilograms, of marijuana. Accordingly USSG §2D1.1(c)(7) applies to this defendant.

11. The offense alleged in Count Six of the Superseding Indictment involves funds derived from the offense alleged in Count One of the Superseding Indictment. Accordingly, USSG §§ 2S1.1(a)(1) & 2D1.1(c)(7) apply to this Count.

A TRUE BILL

William J. Kelleher
FOREPERSON OF THE GRAND JURY

Denise Jefferson Casper
DENISE JEFFERSON CASPER
RACHEL E. HERSHANO
ASSISTANT U.S. ATTORNEY

DISTRICT OF MASSACHUSETTS; October , 2004.

Returned into the District Court by the Grand Jurors and
filed.

Maria S. Smith
M. S. SMITH
DEPUTY CLERK
10/28/04
3:00 pm (W3)

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

UNITED STATES OF AMERICA	)	No.
)	
	)	VIOLATIONS:
	)	21 U.S.C. § 846 -
v.	)	Conspiracy to Possess
	)	With Intent to Distribute
1. DOUGLAS BANNERMAN,	)	And to Distribute Marijuana
2. KURT WALTER,)	
(a/k/a "Cort")	)	21 U.S.C. §841 -
3. GARY NEWELL,	)	Possession of Marijuana with
4. DANIEL MACAULEY,	)	Intent to Distribute and
5. JOHN MCCARTHY,	)	Distribution of Marijuana
6. JOHN GRAHAM,)	
(a/k/a "JG" or "G-Man"),	)	18 U.S.C. §1956(a)(1) -
7. SCOTT MYERS,	)	Money Laundering
8. JOSE VEZGA, and)	
9. FRANK GIGLIO,)	
Defendants.)	

I, the undersigned foreperson of the grand jury of this court, at the term begun and held at Boston on the 28th day of Oct., A.D. 2004, in pursuance of Rule 6(c) of the Federal Rules of Criminal Procedure, do herewith file with the Clerk of the Court a record of the above case, this record not to be made public except on order of the court, to wit:

20

grand jurors concurring in the indictment.



FOREPERSON OF THE GRAND JURY

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: Category No. I _____ Investigating Agency DEA _____

City Boston _____

Related Case Information:

County Suffolk _____

Superseding Ind./ Inf. X Case No. 03-10370-DPW
 Same Defendant X New Defendant _____
 Magistrate Judge Case Number 03-0454-RBC
 Search Warrant Case Number 03-0455-61, 0477, 0479-84-RBC
 R 20/R 40 from District of _____

Defendant Information:

Defendant Name Douglas K. Bannerman _____ Juvenile: Yes No

Alias Name _____

Address 790 Boylston Street, Apt 17E, Boston, MA _____

Birthdate: 1958 SS # _____ Sex: Male Race: White Nationalit _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Rachel E. Hershfang/Denise J. Casper Bar Number if applicable _____

Interpreter: Yes No List language and/or dialect: _____Matter to be SEALED: Yes No Warrant Requested Regular Process In Custody

Location Status:

Arrest Date 12/2/03 _____

X Already in Federal Custody as of 12/2/03 in _____

 Already in State Custody at _____ Serving Sentence Awaiting Trial On Pretrial Release: Ordered by: _____ on _____Charging Document: Complaint Information IndictmentTotal # of Counts: Petty _____ Misdemeanor _____ Felony 1 _____

Continue on Page 2 for Entry of U.S.C. Citations

I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: October 28 2004 Signature of AUSA: 

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Douglas K. Bannerman

U.S.C. Citations

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21 U.S.C. § 846</u>	Conspiracy to possess with intent to distribute Marijuana	1
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____

ADDITIONAL INFORMATION: _____

Criminal Case Cover Sheet**U.S. District Court - District of Massachusetts**Place of Offense: Category No. I Investigating Agency DEACity Boston**Related Case Information:**County SuffolkSuperseding Ind./ Inf. X Case No. 03-10370-DPWSame Defendant X New Defendant _____Magistrate Judge Case Number 03-0454-RBCSearch Warrant Case Number 03-0455-61; 0477, 0479-84-RBC

R 20/R 40 from District of _____

Defendant Information:Defendant Name Kurt Walter Juvenile: Yes NoAlias Name "Cort"Address 30 Gardner Road, Brookline, MABirthdate: 1965 SS # _____ Sex: Male Race: White Nationalit _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:AUSA Rachel E. Hershfang/Denise J. Casper Bar Number if applicable _____Interpreter: Yes No List language and/or dialect: _____Matter to be SEALED: Yes No Warrant Requested Regular Process X In Custody**Location Status:**Arrest Date 12/2/03 Already in Federal Custody as of _____ in _____ Already in State Custody at _____ Serving Sentence Awaiting TrialX On Pretrial Release: Ordered by: _____ on 12/03Charging Document: Complaint Information IndictmentTotal # of Counts: Petty _____ Misdemeanor _____ Felony 6

Continue on Page 2 for Entry of U.S.C. Citations

 I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: October 2004Signature of AUSA: Rachel E. Hershfang

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Kurt Walter**U.S.C. Citations**

	<u>Index Key/Code</u>	<u>Description of Offense Charged</u>	<u>Count Numbers</u>
Set 1	<u>21 U.S.C. § 846</u>	Conspiracy to possess with intent to distribute Marijuana	1
Set 2	<u>21 U.S.C. § 841</u>	PWID and Distribution of Marijuana	2-5
Set 3	<u>18 U.S.C. § 1956(a)(1)</u>	Money Laundering	6
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____
ADDITIONAL INFORMATION: _____			

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: Category No. I _____ Investigating Agency DEA _____

City Boston _____ Related Case Information:

County Suffolk _____ Superseding Ind./ Inf. X _____ Case No. 03-10370-DPW

Same Defendant X _____ New Defendant _____

Magistrate Judge Case Number 03-0454-RBC

Search Warrant Case Number 03-0455-61, 0477, 0479-84-RBC

R 20/R 40 from District of _____

Defendant Information:

Defendant Name Gary Newell Juvenile: Yes No

Alias Name _____

Address _____

Birthdate: _____ SS # _____ Sex: Male Race: _____ Nationality _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Rachel E. Hershfang/Denise J. Casper Bar Number if applicable _____

Interpreter: Yes No List language and/or dialect: _____Matter to be SEALED: Yes No Warrant Requested Regular Process In Custody

Location Status:

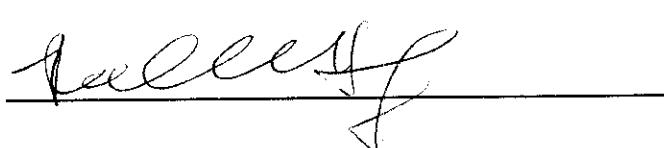
Arrest Date _____

 Already in Federal Custody as of _____ in _____ Already in State Custody at _____ Serving Sentence Awaiting Trial

x On Pretrial Release: Ordered by: _____ on 12/03

Charging Document: Complaint Information IndictmentTotal # of Counts: Petty _____ Misdemeanor _____ Felony 1 _____

Continue on Page 2 for Entry of U.S.C. Citations

 I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.Date: October 16, 2004 Signature of AUSA: 

District Court Case Number (To be filled in by deputy clerk): _____

Name of Defendant Gary Newell

U.S.C. Citations

	Index Key/Code	Description of Offense Charged	Count Numbers
Set 1	<u>21 U.S.C. § 846</u>	Conspiracy to possess with intent to distribute Marijuana	1 _____
Set 2	_____	_____	_____
Set 3	_____	_____	_____
Set 4	_____	_____	_____
Set 5	_____	_____	_____
Set 6	_____	_____	_____
Set 7	_____	_____	_____
Set 8	_____	_____	_____
Set 9	_____	_____	_____
Set 10	_____	_____	_____
Set 11	_____	_____	_____
Set 12	_____	_____	_____
Set 13	_____	_____	_____
Set 14	_____	_____	_____
Set 15	_____	_____	_____
ADDITIONAL INFORMATION: _____			

Criminal Case Cover Sheet

U.S. District Court - District of Massachusetts

Place of Offense: Category No. I Investigating Agency DEA

City Boston

Related Case Information:

County Suffolk

Superseding Ind./ Inf. X Case No. 03-10370-DPW
 Same Defendant X New Defendant _____
 Magistrate Judge Case Number 03-4545-RBC
 Search Warrant Case Number 03-0455-61, 0477, 0479-84-RBC
 R 20/R 40 from District of _____

Defendant Information:

Defendant Name Daniel Macauley Juvenile: Yes No

Alias Name _____

Address 16 Roach Street, Quincy, MA

Birthdate: 1966 SS # _____ Sex: Male Race: _____ Nationality: _____

Defense Counsel if known: _____ Address _____

Bar Number _____

U.S. Attorney Information:

AUSA Rachel E. Hershfang/Denise J. Casper Bar Number if applicable _____

Interpreter: Yes No List language and/or dialect: _____Matter to be SEALED: Yes No Warrant Requested Regular Process In Custody

Location Status:

Arrest Date 12/2/03

 Already in Federal Custody as of _____ in _____ Already in State Custody at _____ Serving Sentence Awaiting Trial

X On Pretrial Release: Ordered by: MJ Collings on 12/3/03

Charging Document: Complaint Information IndictmentTotal # of Counts: Petty Misdemeanor Felony 1

Continue on Page 2 for Entry of U.S.C. Citations

I hereby certify that the case numbers of any prior proceedings before a Magistrate Judge are accurately set forth above.

Date: October 23, 2004 Signature of AUSA: 